j	EDMUND G. BROWN JR. Attorney General of California
2	MARC D. GREENBAUM
3	Supervising Deputy Atterney Genera Brian G. Walsh
4	Deputy Attorney General State Bar No. 207621
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013
6	Telephone: (213) 897-2535 Facsimile: (213) 897-2804
7	Attorneys for Complainant
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	BEFORE THE BOARD OF REGISTERED NURSING
. 9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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11	In the Matter of the Accusation Against: Case No. 2011-46
12	ETHAN EARL THOMPSON  224 Nieto Avenue, #1
13	Long Beach, CA 90803
14	
15	Registered Nurse License No. 608173
16	Respondent.
. 17	
18	Complainant alleges:
19	<u>PARTIES</u>
20	1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her
21	official capacity as the Interim Executive Officer of the Board of Registered Nursing.
.22	2. On or about October 16, 2002, the Board of Registered Nursing (Board) issued
23	Registered Nurse License Number 608173 to Ethan Earl Thompson (Respondent). The
34	Registered Nurse License was in full force and effect at all times relevant to the charges brought
25	herein and will expire on May 31, 2012, unless renewed.
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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

# STATUTORY PROVISIONS

- 4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
  - Section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- . . . .
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
  - Section 2762 states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- "(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section. or the possession of, or falsification of a record pertaining to, the substances described in

 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

# REGULATORY PROVISIONS

California Code of Regulations, title 16, section 1444, states in part:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare."

### COST RECOVERY

7. Section 125.3 provides, in pertinent part, that the Board may request that the administrative law judge direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

# FIRST CAUSE FOR DISCIPLINE

# (Convictions of Substantially-Related Crimes)

- 8. Respondent is subject to disciplinary action under section 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 144, in that Respondent has been convicted of the following crimes, each of which is substantially related to the qualifications, functions, and/or duties of a registered nurse.
- a. On or about October 14, 2009, after pleading noto contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 647, subdivision (f) [public intoxication] in the criminal proceeding entitled *The People of the State of California v. Ethan Earl Thompson* (Super Ct. Los Angeles County, 2009, No. 9LG02588). The underlying arrest occurred on or about August 29, 2009, when officers of the Long Beach Police Department observed Respondent engaging in an aggressive street fight with another male while intoxicated, and continuing to fight after an off-duty police officer identified himself and ordered Respondent to stop fighting. Subsequent breathalyzer tests yielded blood-alcohol content level results of 16% and .17%.

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- b. On or about December 7, 2009, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving while under the influence]; and one misdemeanor count of violating section 23152, subdivision (b) [driving with a blood-alcohol content level greater than .08%.] in the criminal proceeding entitled *The People of the State of California v. Ethan Earl Thompson* (Super. Ct. Los Angeles County, 2009, No. 09WM04552). Respondent was sentenced to 55 days in jail, and placed on five years of formal probation. He was also ordered to complete an 18-month multiple offenders' alcohol education program. The underlying arrest occurred on or about February 13, 2009, when Respondent drove while intoxicated, fell asleep behind the wheel, and drove into a parked trailer.
- c. On or about July 3, 2007, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving with a blood-alcohol content level greater than .08%] in the criminal proceeding entitled *The People of the State of California v. Ethan Earl Thompson* (Super. Ct. Los Angeles County, 2007, No.07WM03069). Respondent was place informal probation for three (3) years, with terms and conditions that included obeying all laws, and not driving with a measurable level of alcohol in his blood. The underlying arrest occurred on or about December 19, 2006, when officers pulled Respondent over for erratic driving and observed him to be impaired. Respondent's three-year probationary period was originally scheduled to terminate on or about July 3, 2010, however, it was revoked on or about December 9, 2009, because Respondent's subsequent July 3, 2007 conviction in Case No. 09WM03069 constituted a violation of the terms of his parole in this case, Case No. 07WM03069.
- d. On or about November 22, 1993, after pleading nolo contendere, Respondent was convicted of violating Vehicle Code section 23103 [reckless driving] in the criminal proceeding entitled *The People of the State of California v. Ethan Earl Thompson* (Super. Ct. Los Angeles County, 1993, No. 93L07963). The underlying arrest occurred on or about October 18, 1993.

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#### SECOND CAUSE FOR DISCIPLINE

# (Dangerous Use of Alcohol)

9. Respondent is subject to disciplinary action under section 2761, subdivision (a), in conjunction with section 2762, subdivision (b), for using alcohol in a manner that was dangerous to himself and others. Complainant now refers to and incorporates all the allegations contained in paragraph 8, including subparagraphs, as though set forth fully.

# THIRD CAUSE FOR DISCIPLINE

# (Alcohol-Related Convictions)

10. Respondent is subject to disciplinary action under section 2761, subdivision (a), in conjunction with section 2762, subdivision (c), in that Respondent has been convicted of alcohol-related crimes.

# PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 608173, issued to Respondent;
- 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
  - 3. Taking such other and further action as deemed necessary and proper.

DATED: 7/15/10 Jouise L. Bailey, M.ED., R.N.

Interim Executive Officer
Board of Registered Nursing

State of California Complainant

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LA2010500670